IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN

S.B. Civil Second Appeal No.508/2006

Mangal Ram (since deceased) through his L.Rs.
Smt. Triveni Devi W/o Mangal Ram & Others
...defendant-appellants
Versus
Kanhaiya Lal @ K.B. Goyal S/o Shri Bhajan Lal
and Budh Prakash Goyal S/o Bhajan Lal
...plaintiff-respondent

Date of Order ::: 11.12.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri M.C. Jain, Counsel for defendant-appellant
Shri Mahaveer Prasad, appellant no.1/2, present-in-person
Shri L.L. Gupta, Counsel for plaintiff-respondents
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By the Court:-

The application filed by the appellant for substitution of legal heirs and representatives of deceased appellant Mangal Ram, which has been filed in time, is allowed and the legal representatives, as mentioned in Para 1 of the application are taken on the record. The amended cause-title has already been filed, which may be placed at its proper place.

Heard learned counsel for both the parties.

Learned counsel for the defendant-appellants, on the instructions of defendant-appellant no.1/2 Mahaveer Prasad, who is present in the court, does not

press this appeal on merits and prays that some reasonable time may be granted to the defendant-appellants to handover peaceful and vacant possession of the rented premises to the plaintiff-respondents. Learned counsel for the plaintiff-respondents has no objection in granting time up-to 31st of December, 2007, to the defendant-appellants to handover peaceful and vacant possession of the rented premises.

Both the parties have agreed to the following terms and conditions:-

1. The defendant-appellants undertake to hand-over the vacant and peaceful possession of the rented premises, in dispute, to the plaintiff-respondents on or before 31st of December, 2007. The plaintiff-respondents shall not execute the impugned decree till 31st of December, 2007.

2. The defendant-appellants undertake to pay or deposit the entire arrears of mesne profit/rent, if any, within a period of one month from today and will further continue to pay the monthly mesne profit/rent by 15th day of each succeeding month or in advance to the plaintiff-respondents.

3. The defendant-appellants further undertake that they shall not sub-let, assign or part with the possession of the rented premises or any part thereof in favour of any one else and would not create any third party interest in the same during the aforesaid period.

4. The defendant-appellants shall furnish a written undertaking incorporating the aforesaid conditions, in the Lower Court within a period of four weeks from today, with an advance copy thereof to the plaintiff-respondents.

5. The plaintiff-respondents shall furnish their bank account to the defendant-appellants or their counsel within a period of two weeks from today. In case, the details of the bank account are furnished by the plaintiff-respondents then the defendant-appellants are directed to deposit the amount of all arrears as well as future mesne profits in the said bank account of the plaintiff-respondents. In case the details of the bank account are not furnished by the plaintiff-respondents then it will be open for the defendant-appellants to deposit the amount, as directed above, in the lower court itself.

It is made clear that in case the defendant-appellants do not comply with any of the aforesaid conditions, then it will be open for the plaintiff-respondents to get the decree passed in their favour executed even before the aforesaid date and to initiate contempt proceedings in this court.

With the aforesaid terms, conditions and directions, the second appeal is accordingly dismissed as not pressed.

(Narendra Kumar Jain) J.

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